

REMARKS

Applicants request favorable reconsideration and withdrawal of the rejection set forth in the above-mentioned Office Action in view of the foregoing amendments and the following remarks.

Claims 1, 2, 5-13, and 15-22 are now pending, with claims 1, 12, 16, 17, 21, and 22 being independent claims. Claim 4 has been canceled without prejudice or disclaimer of subject matter. Claims 1, 16, 17, and 21 have been amended herein. Support for the amendments can be found throughout the originally-filed disclosure, including, for example, at paragraph 0026 of the specification. Thus, Applicants submit the amendments include no new matter.

Claims 1, 2, 4-13, and 15-22 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Levine et al. (U.S. Patent No. 5,477,038) in view of Applicants' disclosed art.

Applicants respectfully traverse the rejection. Nevertheless, without conceding the propriety of the rejection and solely to expedite prosecution, Applicants have amended independent claims 1, 16, and 21 to clarify features of the invention. Applicants submit these amended independent claims, along with independent claims 12, 17, and 22, are patentably distinguishable from Levine et al. and Applicants' disclosed art for at least the following reasons.

Amended independent claim 1 recites a method for facilitating distribution of a transaction account card through a distributor, wherein, inter alia, the transaction account card is a credit card or a debit card. Amended independent claim 21 recites a system for facilitating distribution of a transaction account through a distributor comprising a distributor system configured to distribute cards associated with the transaction accounts, wherein the cards are

credit cards or debit cards. Further, amended independent claim 16 recites a transaction account distribution device comprising features for facilitating the distribution of a credit card or a debit card.

Applicants submit the primary citation to Levine et al. fails to disclose or suggest a method, distribution device, or system as recited in independent claims 1, 16, and 21, including a combination of features for distributing credit or debit cards. Instead, Levine et al.'s method and system is specifically designed for prepaid cards with fixed values. Levine et al., col. 2, lines 6-21. In fact, Levine et al. expressly discloses that the method or system is not for credit or debit cards, because of problems with fraud, expiration dates, and credit controls associated with credit or debit cards. Levine et al., col. 4, lines 4-10. In other words, Levine et al. expressly teaches away from any modification to use with credit or debit cards of the disclosed method or system. Accordingly, even if Levine et al. were to be combined with another reference such as Applicants' disclosed art, the combination would still fail to disclose or suggest the invention recited in amended independent claims 1, 16 and 21 because of Levine et al.'s express teaching away from the invention.

Independent claim 12 recites a transaction account distribution device that comprises a purchase agreement form configured to bear a MICR line configured to be machine readable for conveying a first number associated with a card to a computer system.

The Office Action acknowledges that Levine et al. does not disclose MICR protocol in conjunction with the reference's system. The Office Action asserts, however, Applicants' disclosed art includes the use of MICR protocol, and it would have been a matter of simple substitution to incorporate MICR protocol into the system of Levine et al.

Applicants submit that it would not be a matter of simple substitution to incorporate MICR into the system of Levine et al., nor would it otherwise be obvious to one of ordinary skill in the art in view of the teachings of the reference. The modification set forth in the Office Action of Levine et al. to include MICR in conjunction with the disclosed system goes against the express teachings of Levine et al. An MICR line, as Applicants' disclosure notes, includes a bank's routing and transit number, as well as an account number at the bank. See specification, paragraph 0007. Levine et al., however, expressly discloses that the system's cards should not have an account number of a sales agent or bank so that it is not necessary to have preexisting account relationship with the bank or sales agent. Levine et al., col. 4, line 67 through col. 5, line 3. Thus, the substitution of a MICR line for conveying information into the system of Levine et al. would go against the basic teachings of the reference, as it would require banking information, such as a specific bank account number, thereby in turn requiring a preexisting account relationship with a bank or sales agent. Moreover, the modification of Levine et al. in general to use an MICR line with the system would not amount to a "simple" substitution as characterized in the Office Action, but rather require a complex modification to the system of Levine et al. by necessitating preexisting account relationships with banks in order to effectuate the distribution of cards, such preexisting account relationships not otherwise being necessary without the modification. Accordingly, Applicants submit the combination of Levine et al. and Applicants' disclosed art does not suggest the invention recited in independent claim 16.

Independent claim 17 recites a system for facilitating distribution of a transaction account comprising a transaction account issuing system configured to issue a plurality of transaction accounts, as well as distributor system configured to distribute cards associate with the

transaction accounts and to communicate information to the transaction account issuing system relating to the distribution of the transaction accounts via the cards. Similarly, independent claim 22 recites consigning a plurality of transaction accounts from an issuer to a distributor, and transmitting information from the distributor to the issuer regarding the distribution of the transaction accounts.

The Office Action asserts Levine et al. discloses a method and system wherein a distributor sends information reporting the distribution of transaction account cards.

Applicants submit, however, that Levine et al. does not disclose the combination of an issuer and distributor recited in claims 17 and 22. In Levine et al., the cards are issued by ETC issuers who have financial responsibility for the accounts. Levine et al., col. 2, lines 25 and 26. However, further processing is not conducted by the ETC issuers, but rather by an ETC processor on behalf of the ETC issuers. Levine et al., col. 2, lines 26 and 27. Thus, the distributor in the system and method of Levine et al. does not send information regarding the distribution of the cards to the ETC issuers, but rather to the ETC processor. See, e.g., Levine et al., Figure 5 and col. 5, lines 46-57. Moreover, Levine et al. appears to teach away from any potential modification of having the ETC issuers also be the ETC processors by implying that it is advantageous for the single entity ETC processor to do all of the processing for different issuers. See, e.g., Levine et al., col. 2, lines 24-38. Accordingly, Levine et al. alone, or even when combined with another disclosure such as Applicants' disclosed art, fails to disclose or suggest the invention recited in amended independent claims 17 and 22.

For at least the foregoing reasons, Applicants submit that the combination of Levine et al. and Applicants' disclosed art does not disclose or suggest the invention recited in independent

claims 1, 12, 16, 17, 21, and 22.

Dependent claims 2, 5-11, 13, 15, and 18-20 are also allowable, in their own right, for defining features of the present invention in addition to those recited in the independent claims. Individual consideration of the dependent claims is requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are allowable over the art of record, and that the application is in condition for allowance. Favorable reconsideration and early passage to issue of the application are earnestly solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should be directed to our New York office at the address shown below.

Respectfully submitted,

/Donald H. Heckenberg, Jr./

Attorney for Applicants
Donald H. Heckenberg, Jr.
Registration No. 60,081

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200